

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BOBBY R. KNOX, JR.,)	
)	
Petitioner,)	
)	
v.)	1:14CV327
)	
FRANK L. PERRY,)	
)	
Respondent.)	

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Petitioner, a prisoner of the State of North Carolina, submitted a petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody, together with an application to proceed *in forma pauperis*. For the following reason, the Petition cannot be further processed.

1. Petitioner has already filed one habeas petition which is pending in this Court at this time in case 1:14CV185. Petitioner may not file a second or successive habeas petition. His remedy is to file a motion in that case to amend his pending petition if he wishes to add claims. He must receive permission to do so from the Court.

Because of this pleading failure, the Petition should be filed and then dismissed, without prejudice to Petitioner filing a motion to amend his pending habeas petition. To further aid Petitioner, the Clerk is instructed to send Petitioner new § 2254 forms and instructions for filing a § 2254 petition, which Petitioner should follow in completing the


forms which he can then attach to his motion to amend as a proposed amendment and file in case 1:14CV185.

In forma pauperis status will be granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send Petitioner § 2254 forms and instructions.

IT IS RECOMMENDED that this action be filed, but then dismissed *sua sponte* without prejudice to Petitioner filing a motion to amend his petition in case 1:14CV185.

This, the 18th day of April, 2014.



Joe L. Webster
United States Magistrate Judge